

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA <i>ex rel.</i>)	
JEFFREY H. LIEBMAN and DAVID M.)	
STERN, M.D.,)	Case No.: 3:17-cv-00902
)	
Plaintiff,)	District Judge William L.
)	Campbell, Jr.
v.)	
)	Magistrate Judge Barbara D.
METHODIST LE BONHEUR HEALTHCARE)	Holmes
and METHODIST HEALTHCARE-MEMPHIS)	
HOSPITALS,)	
)	
Defendants.)	

**METHODIST’S MOTION TO EXCLUDE DECLARATION OF
MICHAEL J. PETRON, CPA, CFE AND FOR SANCTIONS**

Pursuant to Federal Rule of Civil Procedure 37, Defendants Methodist Le Bonheur Healthcare and Methodist Healthcare-Memphis Hospitals (collectively, “Methodist”) move to exclude the proposed testimony of Michael J. Petron, CPA, CFE as set forth in his Declaration (the “Declaration”) and its associated Charts. The Declaration and Charts purport to offer undisclosed and untimely expert testimony under the guise of Federal Rule of Evidence 1006 and must be excluded in their entirety, and should not be considered in connection with the United States’ Response to Methodist’s Motion for Summary Judgment, any hearing, or trial.

As set forth fully in the accompanying memorandum of law, the Declaration and Charts do not satisfy the requirements of F.R.E. 1006 because: (1) they do not qualify as “summaries” where Petron testified that he used his specialized knowledge, education, and expertise in developing the calculations and they appear as expert testimony on their face; (2) the government has not met its burden of proving the admissibility of the data that the charts purport to summarize; and (3) the government has not met its burden of showing that the Charts are accurate and non-prejudicial.

Additionally, the government failed to disclose Petron as an expert witness and government actively misled Methodist as to his knowledge, anticipated testimony, and subjects appropriate for deposition.

Because the government has failed to follow Fed. R. Civ. P. 26 on properly designating Petron as an expert witness and failed to follow F.R.E. 1006 on putting forward summary evidence, the Court should exclude his testimony as set forth in the Declaration and associated Charts and award attorneys' fees to Methodist.

Dated: June 2, 2023.

Respectfully submitted,

/s/ Brian D. Roark

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been served on the following counsel via the Court's CM/ECF email notification system on this the 2nd day of June, 2023:

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